Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1996

JOHN MANNING and DEAN ZELINSKY,

Petitioners,

v.

CITY OF CHICAGO, THE OXFORD HOUSE, ZERO PLUS DIALING, INC., RESURGENS COMMUNICATIONS GROUP, INC., INTERNATIONAL TELECHARGE, INC., OPERATOR ASSISTANCE NETWORK, SHEFFIELD SYSTEMS, INC., PEOPLE'S TELEPHONE CO., INC., TELECOM USA, and ILLINOIS BELL TELEPHONE COMPANY,

Respondents.

On Petition for Writ of Certiorari to the Appellate Court of Illinois, First District

PETITION FOR WRIT OF CERTIORARI

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In a cause of action which seeks redress for millions of consumers deceived by trade dress violations and other breaches of the common law and state consumer protection statutes, the state court ruled that all such remedies were barred by federal pre-emption.

QUESTION PRESENTED

Whether the state court erred in precluding Petitioners-Plaintiffs from pursuing state law remedies on the basis of pre-emption by the Federal Communications Act and the Telephone Operator Consumer Services Improvement Act.

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PETITION FOR WRIT OF CERTIORARI

Petitioners-Plaintiffs ("Plaintiffs"), John Manning and Dean Zelinsky, respectfully pray that a writ of certiorari issue to review the judgment and opinion of the Appellate Court of Illinois, First District, entered in this cause on November 13, 1995.

OPINIONS AND ORDERS BELOW

The denial by the Supreme Court of Illinois of Plaintiffs' petition for leave to appeal is reprinted at page 1 of the appendix ("App.").

The opinion of the Appellate Court of Illinois, First District, has been reported as *Manning v. City of Chicago*, 276 Ill. App. 3d 260, 657 N.E.2d 1123 (1995). It is reprinted at App. 2.

The order of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, denying Plaintiffs' motion to vacate that court's July 14, 1992 order dismissing the case and denying Plaintiffs' motion to file amended complaint is reprinted at App. 15.

The memorandum of opinion of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, denying Plaintiffs' motions to vacate dismissal and for leave to file amended complaint has not been reported. It is reprinted at App. 16.

The order of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, dismissing the case is reprinted at App. 22.

JURISDICTION

Plaintiffs brought this action in the Circuit Court of Cook County ("circuit court"), Illinois, on December 11, 1992, alleging four causes of action under Illinois state law. On July 14, 1993, the circuit court dismissed Plaintiffs' complaint on the basis that it was pre-empted by federal law as set forth in the Federal Communications Act ("Communications Act"), 47 U.S.C. § 151, *et seq.*, and

the Telephone Operator Consumer Services Improvement Act ("TOCSIA"), 47 U.S.C. § 226. (App. 22).

On September 17, 1993, the circuit court denied Plaintiffs' motions to vacate the dismissal order and for leave to file amended complaint. (App. 15). After Plaintiffs appealed, the Appellate Court of Illinois, First District, affirmed the circuit court's order on November 13, 1995. (App. 2).

On April 3, 1996, the Supreme Court of Illinois denied Plaintiffs' petition for leave to appeal. (App. 1).

The jurisdiction of this Court to review the concerned judgment is invoked under 28 U.S.C. § 1257(a).

STATUTES INVOLVED

47 U.S.C. § 226

. . .

(d)(1) The Commission shall conduct a rulemaking proceeding pursuant to this subchapter to prescribe regulations to —

(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

(B) ensure that consumers have the opportunity to make informed choices in making such calls.

. . .

(i) Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this chapter.

47 U.S.C. § 414

Nothing in this chapter contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

STATEMENT OF THE CASE

On December 11, 1992, Plaintiffs, John Manning and Dean Zelinsky, filed a Class Action Complaint ("Complaint") against Respondents-Defendants ("Defendants") in Illinois state court alleging four state law causes of action under: 1) the Illinois Uniform Deceptive Trade Practices Act; 2) the Illinois Consumer Fraud and Deceptive Business Practices Act; 3) common law deceptive trade practice and advertising; and 4) fraud. The complaint alleged that Defendants deceptively induced Plaintiffs to use phones with less-sought-after alternate operator services. Plaintiffs alleged that one or more of the Defendants engaged in such deception by passing off their public pay telephones, and the related phone service, as being those of other more commonly recognized competitors, i.e. AT&T and various Bell operating companies, often referred to as "Baby Bells" ("Bell"), by imitating or actually using, *inter alia*, the telephone facade trade dress of these more popular telephone companies. Plaintiffs would use Defendants' telephones to place a telephone call, believing that they were using an AT&T or Bell serviced telephone, when in actuality they were using an alternate operator service. Plaintiffs did not allege that the rates and services themselves were unreasonable or illegal; rather, Plaintiffs alleged, *inter alia*, that they were injured by having unfairly incurred

different rates and services through Defendants' deceptive telephone trade dress and concomitant unlawful state statutory and common law practices.

Defendants, jointly and/or individually, filed various dispositive motions arguing that Plaintiffs' claims were pre-empted by the Communications Act and TOCSIA. On July 14, 1993, the circuit court dismissed Plaintiffs' complaint with prejudice, concluding that Plaintiffs' state law claims were pre-empted by the Communications Act and TOCSIA, and dismissed the case as to all Defendants. (App. 22). After the circuit court's ruling, Plaintiffs filed motions to vacate the order of dismissal and for leave to file a first amended complaint. On September 17, 1993, the circuit court denied both motions. (App. 16-21).

Plaintiffs filed an appeal of the circuit court's ruling with the Appellate Court of Illinois ("appellate court") arguing that their state law claims were not pre-empted by either the Communications Act or TOCSIA, as Plaintiffs were not challenging the rates, terms or conditions imposed on the operator services, the only grounds on which federal pre-emption would apply. Plaintiffs argued they were entitled to pursue their statutory and common law remedies in state court. On November 13, 1995, the appellate court denied Plaintiffs' appeal. The appellate court affirmed the circuit court's order that Plaintiffs' complaint was pre-empted by federal law set out in the Communications Act and TOCSIA, and as a consequence, amendment of Plaintiffs' complaint would have been fruitless. (App. 14). In regard to the pre-emption issues, the appellate court found that the entire field of operator services is pre-empted by Federal law. (App. 14).

Thereafter, Plaintiffs petitioned the Supreme Court of Illinois for leave to appeal. Plaintiffs argued that the appellate court misconstrued the scope of federal pre-emption under TOCSIA and that the court dismissed the possibility of concurrent federal and state action in the area of operator services, despite the existence of the saving clause (47 U.S.C. § 414) contained in the Communications Act. On April 3, 1996, the Supreme Court of Illinois denied Plaintiffs' petition for leave to appeal. (App. 1).

REASONS FOR GRANTING THE WRIT

In affirming the circuit court's dismissal of the case and denial of Plaintiffs' motions to vacate the order of dismissal and to amend the complaint, the appellate court misconstrued federal pre-emption under the Communications Act and TOCSIA. The appellate court stated that because "the entire field of operator services is pre-empted by Federal law," pre-emption applies to Plaintiffs' causes of action and, therefore, Plaintiffs "could not have stated a cause of action." (App. 14). Such an application by the appellate court of federal pre-emption is overly broad and its holding basically deprives not only the Plaintiffs but all similarly situated individuals of their rights under common law and applicable state statutes, such rights which are allowed and recognized under the Communications Act and TOCSIA. A finding of "entire preemption" by a state court has great significance, especially considering this Court's hesitancy to divest individuals of their long-standing common law rights which, "even absent a saving clause, is not to be abrogated 'unless it be found that the preexisting right is so repugnant

to the statute that the survival of such right would in effect deprive the subsequent statute of its efficacy; in other words, render its provisions nugatory.' " *Nader v. Allegheny Airlines, Inc.*, 426 U.S. 290, 298 (1976) (citing *Texas & Pac. R. Co. v. Abilene Cotton Oil Co.*, 204 U.S. 426, 437 (1907). Furthermore, this Court has generally been reluctant to allow complete federal pre-emption over state law claims and "has recognized the existence of complete preemption in only three instances: under Section 301 of the Labor Management Relations Act, under Section 1132 of ERISA, and with regard to certain tribal claims." Wright, Miller, Cooper, Federal Practice & Procedure: Jurisdiction 2d § 3522 (1996 Suppl.).

While the Communications Act is recognized as having pre-emptive reach over certain state laws, the saving clause contained within the Communications Act indicates that Congress did not intend "to supplant all State regulation of interstate telephone carriers . . ." and that "[s]tate-law remedies which do not interfere with the Federal government's authority over interstate telephone charges or services, and which do not otherwise conflict with an express provision of the Act, are preserved by Section 414." *Kellerman v. MCI Telecommunications Corp.*, 112 Ill. 2d 428, 441 and 443, 493 N.E.2d 1045 (1986), *cert. denied*, 479 U.S. 949 (1986). Accordingly, under the saving clause, a broad range of state law causes of action is protected from federal pre-emption. However, the appellate court's ruling severely narrowed the scope of protection set forth by Congress; the court effectively limits the scope of the saving clause to such an extent that it basically holds that the saving clause provides protection from federal pre-emption only to those state claims that involve advertising. This under-

mines the intent Congress had when it enacted the saving clause. Further, such a broad construction runs contra to the current federal pre-emption analysis; courts have recently given greater focus and analysis in determining the scope of pre-emption. *See Lohr v. Medtronic, Inc.*, Nos. 95-754, 95-886, 1996 U.S. LEXIS 4260 (1996) (the Court analyzed each state law claim individually in determining that the Medical Device Amendments Act did not pre-empt any of the claims).

In addition to under-applying the scope of protection the saving clause affords state law causes of action in relation to the Communications Act prior to the enactment of TOCSIA, the appellate court misapplies the scope of federal pre-emption under TOCSIA in finding the "entire field" pre-empted and by ignoring the effect of the saving clause in relation to TOCSIA. The appellate court's expansive ruling held that TOCSIA pre-empts all of Plaintiffs' state law causes of action in the area of operator services. In addition, the appellate court's failure to apply the saving clause, 47 U.S.C. § 414, of the Communications Act to TOCSIA, which is contained within the Communications Act, effectively nullifies its force and effect. Such a consequence was not anticipated nor intended by Congress, and the state court should not broaden the expanse of federal pre-emption in the absence of any federal intent to do so. By leaving the saving clause in place after the enactment of TOCSIA, Congress demonstrated its intent that the saving clause continue to have application over the entire Communications Act, including TOCSIA.

I.

STATE LAW CAUSES OF ACTION SHOULD NOT BE PRE-EMPTED CONTRARY TO AN EXTANT SAVING CLAUSE AND CONGRESSIONAL INTENT.

The pre-emption analysis begins with the proposition that "where the states have traditionally occupied a field, we must 'start with the assumption that the historic police powers of the states were not to be superseded by the federal act unless that was the clear and manifest purpose of congress.' " *Tebbetts v. Ford Motor Co.*, 665 A.2d 345 (N.H. 1995), *cert. denied*, 1996 U.S. LEXIS 487 (1996) (holding the federal National Traffic and Motor Vehicle Safety Act of 1996 did not pre-empt state actions) (citing *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218 (1947)). "[B]ecause the states are independent sovereigns in our federal system, we have long presumed that Congress does not cavalierly pre-empt state-law causes of action." *Lohr*, 1996 U.S. LEXIS 4260, at *25.

The Communications Act expressly states that its purpose is to "make available, so far as possible . . . a rapid, efficient . . . communication service with adequate facilities at reasonable charges." 47 U.S.C. § 151. While the Communications Act maintains federal jurisdiction over the rates, terms and conditions of interstate operator services, it does not completely pre-empt state law claims in the area of interstate operator services; further, the Communications Act does not pre-empt state law claims in the area of intrastate operator services. 47 U.S.C. § 152. Congress expressly provided for state law claims in the area of interstate operator services through the enactment of a "saving clause" within the Communications Act, which states:

> Nothing in this chapter contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

42 U.S.C. § 414. Accordingly, the Communications Act recognizes that state action can exist equally alongside the parameters of federal regulations. *See Coop. Communications, Inc. v. AT&T Corp.*, 867 F. Supp. 1511, 1516 (D.Utah 1994) (holding that independent state law causes of action were not subsumed by the Communications Act but remained separate causes of action); *Am. Inmate Phone Sys. v. US Sprint*, 787 F. Supp. 852, 856 (N.D.Ill. 1992) (holding that the Communications Act does not pre-empt contract and Illinois Consumer Fraud Act claims). Congress clearly intended that long-standing state law causes of action remain available to individuals. The Federal Communications Commission ("FCC") further supported the breadth and the scope in which the saving clause protected state law claims from federal pre-emption when it stated that "Section 414 of the Act preserves the availability against interstate carriers of such preexisting state remedies as tort, breach of contract, negligence, fraud and misrepresentation—remedies generally applicable to all corporations operating in the state, not just telecommunications carriers." *In re OSPA*, 6 F.C.C.R. 4475, 1991 FCC LEXIS 3735, at *10 (1991). *See also Kellerman*, 112 Ill. 2d at 443-44 (no pre-emption of state law claims for fraud and deceptive practices when the actions did not involve the quality of the service nor the reasonableness and lawfulness of the rates).

The appellate court in this case unilaterally redefined a new scope of federal pre-emption, by expanding the scope of pre-emption and narrowing the scope of protec-

tion intended by Congress. Plaintiffs were deprived of common law and state statutory remedies by this misapplication of pre-emption. Nowhere in Plaintiffs' complaint is there any challenge to the reasonableness or lawfulness of Defendants' rates. Plaintiffs' allegations of damage caused by Defendants' deceitful passing-off tactics, i.e., paying substantially higher operator assistance rates, cannot fairly be confused with an attack on the rates themselves. Plaintiffs were damaged regardless of the lawfulness of the rates, in that they were deceived into dealing with parties other than as represented. It is the manner in which the Defendants deceptively display and portray their services as those of another through deceptive trade dress which Plaintiffs challenge. Plaintiffs are only seeking that Defendants be held to the same standards as required of all businesses. Challenging the manner in which the Defendants make their public pay phones look as those of others has no relation to rates, terms or services and does not intrude upon the area of federal law. If anything, Plaintiffs' position is supportive of the concerned Congressional intent as preventing laissez-faire endorsement to tortfeasors and will ensure healthier competition and availability of service.

Had the appellate court correctly followed the intended application of the saving clause in the Communications Act to Plaintiffs' state law claims, it would have asked whether the state law claims alleged interfere or conflict with federal authority over interstate telephone charges or services. Congress' focus was not on whether the state law claims challenged advertising. The allegations of Plaintiffs' complaint included, *inter alia*, Defendants passing off their telephones, services, and rates as another's, the likelihood of confusion or misunderstanding,

deceptive representations or designations, knowingly participating in, contributing to or accepting benefits of unfair and deceptive conduct, intent to induce use, and reliance on untrue, unfair, misleading or deceptive acts, conduct, omissions and misrepresentations. Protection against these frequent marketplace evils, as provided by the common law and state statutes, should not be wiped out by a state court's misguided foray into rewriting federal law and imagining into reality an intent that never existed.

II.

THE SAVING CLAUSE OF THE COMMUNICATIONS ACT IS CLEARLY APPLICABLE TO TOCSIA; ANY QUESTION IN THAT REGARD IS SUPPLANTED BY THE HARMONY BETWEEN THE RELIEF SOUGHT BY THESE PLAINTIFFS AND THE CONGRESSIONAL PURPOSE AND INTENT OF THE COMMUNICATIONS ACT AND TOCSIA.

TOCSIA was enacted in 1990 after the Communications Act and the related saving clause were already in effect. TOCSIA is part of the Communications Act and is equally subject to the Section 414 saving clause, as Congress did not modify Section 414 when it enacted TOCSIA as part of the Communications Act. By choosing not to modify Section 414 when it enacted TOCSIA, Congress indicated its intent that the saving clause apply to TOCSIA as well, an intent which was ignored by the appellate court. By ignoring the protection the saving clause affords state law claims from federal pre-emption under TOCSIA, the appellate court attempts to rewrite federal law.

The FCC stated in *In re OSPA* that "the Communications Act and TOCSIA independently establish Congress' intent to have this Commission exclusively regulate the *rates, terms, and conditions* of interstate operator services." 1991 FCC LEXIS 3735, at *7 (emphasis added). Thus, the Communications Act and TOCSIA share not only the same protection of state law claims under the saving clause, but the same area of exclusive federal pre-emption. The scope of exclusive federal pre-emption after the enactment of TOCSIA looks at the same standards as the Communications Act did prior to the enactment of TOCSIA (regulation of rates, terms and conditions). As there is a limited scope of federal pre-emption, common law duties clearly remain pursuable. *See Lohr*, 1996 U.S. LEXIS 4260, at *55 ("given the critical importance of device-specificity in our (and the FDA's) construction of [the statute] it is apparent that few, if any, common-law duties have been pre-empted by this statute."). Yet the appellate court fails to recognize such an interpretation of Congressional intent, and contrary to such intent, instead applies a general umbrella of federal pre-emption over the "entire field of operator services".

As already argued above, Congress did not expressly provide for complete federal pre-emption of state law claims under the Communications Act. Similarly, TOCSIA does not exercise complete pre-emption over state law claims either, due to Congress' maintenance of the saving clause, which limits TOCSIA in its pre-emptive reach over state law claims in the area of operator service providers. The fact that TOCSIA also specifically provides that its requirements regarding postings near telephones do not apply where states have regulations

substantially similar to TOCSIA indicates pre-emption was not intended to be complete. 47 U.S.C. § 226(c)(2). It must also be noted that TOCSIA's provision regarding rates sets no exact limits but essentially defers to marketplace forces subject to a review procedure. 47 U.S.C. § 226(h). It is not likely that Congress intended this reliance on the forces of the marketplace to be without the protection of local law; states are not completely pre-empted by TOCSIA as TOCSIA cannot defer to a lawless marketplace. Nevertheless, the appellate court incorrectly broadened the scope of federal pre-emption under TOCSIA by finding that complete federal pre-emption was implied.

Federal pre-emption may be implied when the objective of the federal law is "so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it." *Fidelity Fed'l Savings & Loan v. de la Cuesta*, 458 U.S. 141, 153 (1982). There are two ways in which federal pre-emption might be implied and applied over state law claims. Federal pre-emption by implication may exist where compliance with both state and federal law is an impossibility. *English v. Gen'l Elec. Co.*, 496 U.S. 72 (1990), *People v. Kerr-McGee Chem. Corp.*, 677 F.2d 571 (7th Cir. 1982), *cert. denied*, 459 U.S. 1049 (1982). Federal pre-emption by implication may also exist where state law "stands as an obstacle to the accomplishment and execution of [Congress'] full purposes and objectives." *Hines v. Davidowitz*, 312 U.S. 52 (1941).

This Court has determined that courts must "examine the Federal statute in question to determine whether Congress intended to supplant State laws on the same subject." *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 208 (1985). However, the appellate court applied the

standards of implied pre-emption without considering the intent of Congress and without any consideration of the existence of the saving clause. In its blind application of complete federal pre-emption under TOCSIA, without consideration of the impact of the saving clause, the appellate court effectively took on the role of Congress in deciding legislation. The state has thus intruded on the territory of another governmental branch and acted in such a manner as to take away the long-standing common law rights and related general statutory rights from its citizens, rights which the federal government specifically sought to maintain and protect.

The appellate court basically determined that federal regulation in the area of operator services after the enactment of TOCSIA is so pervasive that the state cannot supplement it. (App. 11-14). The appellate court was overly broad in application of the scope of pre-emption by, *inter alia*, reading that *In re OSPA* supports the notion that TOCSIA pre-empts Plaintiffs' causes of action alleged under common law (App. 11). In fact, the FCC's findings in *In re OSPA* only serve to emphasize that the appellate court's determination is incorrect. The FCC in *In re OSPA* determined that the Tennessee statute at issue in the case was not protected from pre-emption under the saving clause because it sought to "establish the terms and conditions under which interstate operator services may be offered in the states . . . [and thus seeks] to assure the reasonableness of the rates, terms, and conditions of interstate communications services," and noted that the statute "did not concern remedies against interstate carriers based on statutory or common law remedies preserved under Section 414, such as a consumer's ability to sue . . . for common law fraud or misrepre-

sentation." 1991 FCC LEXIS 3735, at *11. Therefore, Plaintiffs' claims under state law are protected from pre-emption, as *In re OSPA*'s recognition of state remedies clearly supports the assertion that claims under state and federal law can exist concurrently in the area of operator services.

The appellate court effectively found there was complete federal pre-emption over state law claims by misapplying TOCSIA and refusing to apply the § 414 saving clause to Plaintiffs' claims. This is evidenced by its statement that even if "plaintiffs' objective was to address the 'striking similarity of the telephones [which] lulls the plaintiffs and consuming public into believing that they are using Bell telephones' . . . [a]llowing State action in this arena would stand as an obstacle to the accomplishment of Congress's goals and objectives . . ." in holding that TOCSIA pre-empts the state law claims. (App. 13). Thus, the appellate court effectively refused to recognize the viability of state law claims and formulated a holding which allows pre-emption of state law claims even if they are not challenging rates, terms or conditions. The court failed to analyze each of Plaintiffs' causes of action individually, instead choosing to apply a general application of pre-emption. The appellate court never articulated or elaborated on how Plaintiffs' claims stood as an obstacle to Congress' goals and objectives, which were to "protect consumers who make interstate operator services calls from pay telephones, hotels, and other public locations against unreasonably high rates and anticompetitive practices." S. Rep. No. 439, 101st Cong., 2d Sess. 1 (1990). In reality, the appellate court could not so elaborate, as Plaintiffs' pursuit of available rights supports

and is in furtherance of the underlying Congressional intent and does not interfere or conflict with Congress.

The appellate court decided TOCSIA completely pre-empted the area of operator services by asserting that although "TOCSIA did not set any standards regarding the position or appearance of public telephones" the area was still governed by federal law, and not left open to the States. (App. 13). This analysis is another attempt to broaden the scope of implied federal pre-emption, in direct conflict with Congressional intent. As stated earlier, implied pre-emption exists where state law conflicts with federal law, either through impossibility of complying with both state and federal requirements or where state law stands as an obstacle to the accomplishment of the federal purpose. As confirmed by the appellate court, no standards exist under TOCSIA regarding the position or appearance of public telephones. It is precisely the deceptive position or appearance of public telephones which Plaintiffs challenge under state common law; thus, "it is not impossible for petitioners to comply with both federal and state law because there is no federal standard for a private party to comply with." *Freightliner Corp. v. Myrick*, 514 U.S. ___, 1995 U.S. LEXIS 2841, at *17 (1995). Had the proper analysis been applied to Plaintiffs' claims, the court would have found that as compliance under both state and federal law was possible, there was no pre-emption.

Notably, this Court has held that the absence of a regulation does not indicate an affirmative decision on the part of the federal government that regulation in the area is not approved. *Freightliner*, 1995 U.S. LEXIS 2841, at *12. Thus, the appellate court contradicted this Court's position by finding that the absence of federal

regulation under TOCSIA regarding the positioning or appearance of public telephones nevertheless meant that the area was not left open to the states. (App. 13). There is no such evidence that Congress, in enacting TOCSIA, meant to keep the area of operator services free from all state regulation. In fact, the intent of Congress appears to indicate the opposite, in light of its maintenance of the saving clause. Therefore, the appellate court's finding that Plaintiffs' state law claims would conflict with federal law was contrary to the position of this Court and counter to the intent of Congress.

In the case before this Court, Plaintiffs are seeking remedies which are generally applicable to all those who would deal with the public, not just operator services. Plaintiffs are not infringing on the standards set by Congress for the operator services. The appellate court must follow its own claim that "[i]t is not for the States to enlarge on the methods employed by Congress" (App. 14) and should not enlarge on the scope of federal preemption which has been set forth by Congress. No state court should be permitted to engage in an abuse of preemption which destroys the common law and statutory rights of its citizens.

CONCLUSION

For the foregoing reasons, this petition for certiorari should be granted.

Respectfully submitted,

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